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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/605,848	06/29/2000	Lewis Dean Dodrill	95-418	7958

23164 7590 03/03/2005

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EXAMINER

CHOUDHARY, ANITA

ART UNIT	PAPER NUMBER
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2153

DATE MAILED: 03/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/605,848

Applicant(s)

DODRILL ET AL.

Examiner

Anita Choudhary

Art Unit

2153

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 03 January 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1,3-20,22-28,30-39 and 41.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☒ Other: No amendments after final were submitted. Applicant only submitted remarks after final. Examiner has responded to the remarks. (see attached).

***Response to Arguments***

Applicant's arguments filed January 3, 2005 have been fully considered but they are not persuasive.

Regarding claims 1 and 28, Applicant argues that in Phaal patent shows a web page sent to the client (e.g. first party), not to a second party to notify the second party of a new application session. Therefore, arguing that Examiner has improperly designated the "client" of Phaal as the first and second party.

In response, the claim limitations do not show a web page being sent to the second party. Phaal shows a client/host system for executing application sessions between the client and host. Client sends a new application session request to host side, if host side cannot serve the request at the current time, the host side will send client a message informing client of a better time to resubmit request. Thus, host side implements admissions control system by determining the host sides' availability to accept a request. If host cannot accept the request due to overload conditions, the host formats a HTML page that is downloaded to the client side instructing the browser to notify the host again of the client request so as to present the new application session message to the host. The countdown mechanism allows the client to notify the host of a new application session message that was previously denied by the host. (See col. 4 lines 26-64). And although the request for an application session is being resubmitted it is still for a "new" application session, since the session was never established (col. 5 lines 8-12).

Regarding claim 12, Applicant argues that in Phaal, the user's instance (first application instance) does not generate a HTML page having instructions to interrupt another party's session and initiate a new application session for the second party.

In response, although the message is generated on the host side, it is generated for display on the client (first party) (col. 7 lines 27-44). The countdown mechanism is similarly created at the host but the client generates it for display (col. 7 lines 25-44). Therefore, HTML pages are received and implemented on the client side having instruction to interrupt a present application session running on the host.

In regards to claims 20 and 39, Phaal shows an HTML document for a client that instructs the client to interrupt a present application session of a host to create a new application session (col. 4 lines 30-60). Each time a client's previously submitted request is sent to the host for a new session, the host reassesses priority of the requested new session. Thus the re-submission may interrupt a present session of lower priority (col. 5 lines 17-39).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita Choudhary whose telephone number is (703) 305-5268. The examiner can normally be reached on 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (703) 305-4792. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2153

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anita Choudhary

March 1, 2005